

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**UNITED STATES OF AMERICA**  
**Plaintiff,**

**v.**

**Case No. 92-CR-193**

**FRANK MALAVE**  
**Defendant.**

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**ORDER**

Defendant Frank Malave, currently incarcerated at FCI-Oxford,<sup>1</sup> moves for an interruption of his sentence for a period of 90-180 days to care for his terminally ill father. He states that he has not made a request for temporary release to the Bureau of Prisons (“BOP”) because it is time consuming and not guaranteed. See 18 U.S.C. § 3622 (setting forth the BOP’s authority to allow temporary release to, among other things, visit a dying relative).

District judges in this circuit have granted requests for an interruption of sentence to care for ill family members or attend funerals. However, such requests are not granted as a matter of course. Absence from family affairs is one of the ordinary incidents of incarceration. Further, defendant’s request would apparently involve him moving to Puerto Rico for several months to care for his father; it would not amount to a brief interruption allowing travel to a local destination for a set period of time. Finally, defendant has failed to exhaust his administrative remedies under 18 U.S.C. § 3622, PS 5538.04 and PS 5280.08.

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<sup>1</sup>Judge Curran sentenced defendant to 240 months in prison on drug charges. The case was re-assigned to me on Judge Curran’s retirement.

**THEREFORE, IT IS ORDERED** that defendant's motion (R. 88, 89) is **DENIED**.

Dated at Milwaukee, Wisconsin, this 11th day of September, 2007.

/s Lynn Adelman

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LYNN ADELMAN  
District Judge